

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

STEPHEN PATRICK KELLY,

Plaintiff,

vs.

JENNIFER PLUTE, in her official
capacity; and
KENNETH A. GRIFFIN,

Defendants.

CV 20–15–H–DLC

ORDER

Before the Court is the Findings and Recommendations of Magistrate Judge John Johnston, entered on March 2, 2021. (Doc. 10.) Judge Johnston recommends dismissing this case for lack of subject matter jurisdiction. (*Id.* at 6.) Plaintiff Stephen Patrick Kelly does not object.

Absent objection, the Court reviews a magistrate judge’s findings for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error review is “significantly deferential” and exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Reviewing for clear error, the Court finds none. Kelly alleges that the

Court has subject matter jurisdiction over his claims based on the parties' diversity of citizenship. (Doc. 2 at 4.) However, as Judge Johnston finds, the amount in controversy—\$10,000—falls fall short of the amount required to establish diversity jurisdiction. *See* 28 U.S.C. §1332(a). Thus, the Court agrees with the magistrate judge's finding that diversity jurisdiction does not exist here. And, like Judge Johnston, the Court fails to see a curative path forward such that Kelly should be granted leave to amend his complaint. *See Karim-Panahi v. L.A. Police Dep't*, 839 F.2d 621, 623 (9th Cir. 1988).

Accordingly, IT IS ORDERED that the Court ADOPTS Judge Johnston's Findings and Recommendations (Doc. 10) IN FULL. Consequently, IT IS ORDERED that this matter is DISMISSED without prejudice for lack of subject matter jurisdiction.

IT IS FURTHER ORDERED that all pending motions are DENIED as moot.

DATED this 22nd day of March, 2021.



Dana L. Christensen, District Judge
United States District Court